

Proposed Public Participation Guidelines

18 VAC 10-10-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning unless the context indicates otherwise:

“Administrative Process Act” means ~~Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9~~ Chapter 40 of Title 2.2 of the Code of Virginia.

“Agency” means any authority, instrumentality, officer, board, or other unit of state government empowered by the basic laws to make regulations or decide cases.

“Notification lists” means lists used by the board to notify persons pursuant to these rules. Such lists may include electronic mailing lists or regular mailing lists maintained by the board.

“Organization” means any one or more association, advisory council, committee, corporation, partnership, governmental body or legal entity.

“Person” means one or more individuals.

18 VAC 10-10-20. ~~Mailing list~~ Notification lists.

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The agency will maintain ~~a list~~ lists of persons and organizations who will be mailed the following documents, or notification of how to obtain a copy of the documents electronically, as they become available:

1. “Notice of Intended Regulatory Action” to promulgate, amend or repeal regulations.
2. “Notice of Comment Period” and public hearings.
3. Notice that the final regulations have been adopted.

Failure of ~~these persons and organizations~~ a person or organization to receive the documents for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act (~~§ 9-6.14:1~~ § 2.2-4000 et seq. of the Code of Virginia).

18 VAC 10-10-30. Placement on the mailing list; deletion.

Any person or organization wishing to be placed on ~~the mailing~~ a notification list may do so by electronic notification or by writing the agency. In addition, the agency, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of

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regulations. ~~Persons~~ Each person and organization on the list will be provided all information stated in section 18 VAC 10-10-20. ~~Individuals and organizations~~ A person or organization periodically may be requested to indicate their desire to continue to receive documents or be deleted from the list. When mail or electronic notifications ~~is~~ are returned as undeliverable, ~~individuals and organizations~~ a person or organization will be deleted from the list.

18 VAC 10-10-40. Petition for rulemaking.

Any person may petition the agency to consider or review any regulation. Any petition received shall appear on the next agenda of the agency. The agency shall consider and respond to the petition ~~within 180 days~~ pursuant to § 2.2-4007.A of the Code of Virginia. The agency shall have sole authority to dispose of the petition.

18 VAC 10-10-50. Notice of intent.

At least 30 days prior to the filing the “Notice of Comment Period” and proposed regulations as required by § ~~9-4.14.7.1~~ 2.2-4007 of the Code of Virginia, the agency will publish a “Notice of Intended Regulatory Action.” This notice will provide ~~for~~ at least a 30 day comment period and shall state whether the agency intends to hold a public hearing. The agency is required to hold a hearing on the proposed regulation upon request by ~~the~~ [i] the Governor or [ii] 25 or more persons. Further, the notice shall

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describe the subject matter and intent of the planned regulation. Such notice shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations.

18 VAC 10-10-60. Informational proceedings or public hearings for existing rules.

Within two years of the promulgation of a regulation, the agency shall evaluate it for effectiveness and continued need. The agency shall conduct an informal proceeding, which may take the form of a public hearing, to receive public comment on existing regulation. Notice of such proceedings shall be transmitted to the Registrar for inclusion in The Virginia Register of Regulations. Such proceedings may be held separately or in conjunction with other informational proceedings.

18 VAC 10-10-70. Notice of formulation and adoption.

At any meeting of the agency or a subcommittee where it is anticipated the formation or adoption of regulation will occur, the subject matter shall be transmitted to the Registrar for inclusion in The Virginia Register of Regulations.

If ~~there are~~ one or more changes ~~with~~ have substantial impact on a regulation, then any person may petition the agency within 30 days from the publication of the final regulation to request an opportunity for oral or written submittals on the changes to the

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regulations. If the agency receives requests from at least 25 persons for an opportunity to make oral or written comment, then the agency shall suspend the regulatory process for 30 days to solicit additional public comment, unless the agency determines that the changes made are minor or inconsequential in their impact.

If the Governor finds that one or more changes with substantial impact have been made to proposed regulation, then he may suspend the regulatory process for 30 days to require the agency to solicit further public comment on the changes to the regulation.

A draft of the agency's summary description of the public comment shall be sent by the agency to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

18 VAC 10-10-80. Advisory committees.

The agency intends to appoint advisory committees as it deems necessary to provide adequate participation in the formation, promulgation, adoption, and review of regulations. Such committees are particularly appropriate when other interested parties may possess specific expertise in the area of the proposed regulation. The advisory committee shall only provide recommendations to the agency and shall not participate in any final decision making actions on a regulation.

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When identifying potential advisory committee members the agency may use the following:

- a. Directories or organizations related to the profession,
- b. Industry, professional and trade associations' mailing lists, ~~and~~ or
- c. Lists of persons who have previously participated in public proceedings concerning this or a related issue.

18 VAC 10-10-90. Applicability.

18 VAC 10-20-20, 18 VAC 10-20-30, 18 VAC 10-20-40, 18 VAC 10-20-60, and 18 VAC 10-20-70 shall apply to all regulations promulgated and adopted in accordance with ~~§ 9-6.14:9~~ § 2.2-4012 of the Code of Virginia except those regulations promulgated in accordance with ~~§ 9-6.14:4.1~~ §§ 2.2-4002, 2.2-4006, 2.2-4011, 2.2-4018, or 2.2-4025 of the Administrative Process Act.